

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Sharon Caliman	:	
	:	
v.	:	F-2019-3008485
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Gail M. Chiodo  
Special Agent

This decision sustains the complaint of a gas service customer seeking a payment arrangement under the Responsible Utility Customer Protection Act of the Public Utility Code.

**HISTORY OF THE PROCEEDING**

On March 11, 2019, Sharon Caliman (Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW or Respondent) alleging that Respondent is threatening to shut off her service and as relief, she requested a payment arrangement that she could afford.

The complaint is a timely appeal of a Bureau of Consumer Services (BCS) informal decision dated January 22, 2019 at BCS Case No. 3675771. The BCS found that Ms. Caliman was eligible for a Commission-issued payment arrangement as a level three customer.<sup>1</sup> The BCS decision directed Ms. Caliman to pay a total of \$352 per month, consisting of \$163 for

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<sup>1</sup> A level three customer is defined as a customer having a household with a gross monthly income exceeding 250% and not more than 300% of the Federal poverty level and is provided with a repayment period of not more than one year. 66 Pa.C.S. § 1405(b)(2).

her current budget bill, plus \$189 towards her arrearage of \$2,265.64, beginning with her March 2019 billing due date. In her complaint, Ms. Caliman seeks more favorable payment terms.

On April 3, 2019, PGW filed an answer admitting that the complaint is an appeal from the decision at BCS Case No. 3675771. PGW asked that the complaint be dismissed.

By hearing notice issued on April 4, 2019, the Commission scheduled a telephonic hearing for May 6, 2019. The case was assigned to me pursuant to 52 Pa. Code § 56.174.<sup>2</sup> A prehearing order was issued on April 29, 2019 which addressed various procedures applicable to this proceeding.

On May 6, 2019, a telephonic hearing was held. Complainant appeared *pro se* and presented testimony in support of her complaint but did not offer any exhibits. Ms. Graciela Christlieb, Esquire, represented Respondent and presented one witness, Jessica Antonetti, a customer review officer, who sponsored the following three exhibits that were admitted into the record:

PGW Exhibit 1 – Statement of Account  
PGW Exhibit 2 – Payment Arrangement History  
PGW Exhibit 3 – BCS No. 3675771 Opening & Closing Reports

The record closed following the conclusion of the hearing.<sup>3</sup>

#### FINDINGS OF FACT

1. The Complainant is Sharon Caliman.
2. The Respondent is Philadelphia Gas Works, which provides service to the Complainant at the service address.

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<sup>2</sup> 52 Pa. Code § 56.174 (providing for review by a special agent of decisions of the BCS and any other case in which the issue is solely the ability to pay).

<sup>3</sup> Pursuant to 52 Pa. Code § 56.174(3), the hearing was tape recorded. No court reporter was present.

3. The service address is 5840 Kemble Avenue, Philadelphia, Pennsylvania.
4. Respondent provided Ms. Caliman with four payment agreements; Complainant defaulted on all of them. PGW Exhibit 2.
5. Respondent provided Ms. Caliman with four payment agreements on the following dates: November 17, 2008; May 20, 2009; April 16, 2015; and May 22, 2017. PGW Exhibit 2.
6. In May of 2017, Ms. Caliman made two payments totaling \$1,853.24; one on May 5 in the amount of \$1,669.36 and one on May 26 in the amount of \$183.88. PGW Exhibit 1.
7. From May 2017 to February 2019, Ms. Caliman made a payment every month but not every monthly payment was for the full amount due. PGW Exhibit 1.
8. On January 18, 2019, Complainant filed an informal complaint with BCS at BCS Case No. 3675771 seeking a payment arrangement. PGW Exhibit 3.
9. By decision dated January 22, 2019, in BCS Case No. 3675771, BCS found that Ms. Caliman was eligible for a level three payment arrangement. PGW Exhibit 3.
10. The informal decision at BCS Case No. 3675771 directed Ms. Caliman to pay a total of \$352 per month, beginning with her March 2019 bill, for her current budget bill amount of \$163, plus \$189 on her arrearage of \$2,265.64. PGW Exhibit 3.
11. On March 11, 2019, Ms. Caliman timely filed the instant formal complaint seeking a more favorable payment arrangement.
12. Ms. Caliman's gross monthly household income is \$3,000 which she receives in wages from her employment.

13. Ms. Caliman's household size consists of herself.

14. At the time of the hearing, Ms. Caliman had an outstanding balance of \$3,055.82. PGW Exhibit 1.

### DISCUSSION

As the party seeking affirmative relief from the Commission, the Complainant bears the burden of proof pursuant to the Public Utility Code (Code). 66 Pa.C.S. § 332(a). "Burden of proof" means a duty to establish one's case by a preponderance of the evidence, which requires that the evidence be more convincing by even the smallest degree than the evidence presented by the other side. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950). To satisfy the burden of proof, a complainant must show that the utility is responsible or accountable for the problem described in the complaint, *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. PUC 300 (1976), or that the utility has violated either its duty under the Code or the orders or regulations of the Commission. 66 Pa.C.S. § 701.

Additionally, any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence. *Mill v. Pa. Pub. Util. Comm'n*, 447 A.2d 1100 (Pa.Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa.Cmwlth. 1993); 2 Pa.C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Pa. Dept. of Public Welfare*, 480 A.2d 382 (Pa.Cmwlth. 1984).

As a timely appeal from the decision at BCS Case No. 3675771, this is a *de novo* review of the BCS determination. 52 Pa. Code § 56.403(a). The term "*de novo*" simply means "anew" or "over again." See, *Harnett v. PPL Electric Utilities Corp.*, Docket No. F-2012-2329578 (Opinion and Order entered November 14, 2013) (providing in ability to pay proceedings involving a timely appeal from the BCS decision, the informal decision is

automatically stayed and the customer cannot be in default until the formal complaint on appeal is fully adjudicated and a final order is entered).

The Responsible Utility Customer Protection Act, 66 Pa.C.S. §§ 1401-1419 (Act), applies to complainants alleging inability to pay and requesting a Commission-ordered payment arrangement. *See*, 66 Pa.C.S. § 1405(a), which provides that, “[t]he commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers . . . within the limits established by this chapter.” One limit established by the Act is the length of the repayment period that the Commission may grant. 66 Pa.C.S. § 1405(b). Further, the customer seeking a payment arrangement must also demonstrate some evidence of a good faith effort to pay his or her utility bills. *Hewitt v. PECO Energy Co.*, Docket No. F-2011-2273271 (Opinion and Order entered September 12, 2013) (*Hewitt*).

Pursuant to the Act, the length of a payment arrangement that the Commission may grant is determined by the customer’s household income in relation to where the customer falls on the Federal poverty level. Specifically, the Act provides, in relevant part:

**(b) Length of payment arrangements.**--The length of time for a customer to resolve an unpaid balance on an account that is subject to a payment arrangement that is investigated by the commission and is entered into by a public utility and a customer shall not extend beyond:

\* \* \*

(3) One year for customers with a gross monthly household income level exceeding 250% of the Federal poverty level and not more than 300% of the Federal poverty level.

66 Pa.C.S. § 1405(b)(3).

Ms. Caliman testified about her household income and size. Ms. Caliman testified that her gross monthly household income is \$3,000 and her household size consists of herself. Therefore, Ms. Caliman falls between 250 and 300 percent of the Federal poverty level, thereby making her a level three customer who the Commission may grant a repayment period of

one year to extinguish her outstanding balance. 66 Pa.C.S. § 1405(b)(3). *See, Federal Register*, Vol. 84, No. 22, p. 1168 (February 1, 2019) (providing that a one-person household with a gross monthly household income of \$2,602 is at 250% of the Federal poverty level and with a gross monthly household income of \$3,123 is at 300% of the Federal poverty level).

Next, discretion is warranted to grant Ms. Caliman a Commission-issued payment arrangement since she has demonstrated some evidence of a good faith effort to pay her utility bills. *Hewitt*. While Ms. Caliman has defaulted on four company payment agreements, two of these agreements are over ten years old, the ones in 2008 and 2009. More recently, in May of 2017, Ms. Caliman made two substantial payments totaling over \$1,800. Thereafter, for nearly two years from June 2017 up until February 2019, Ms. Caliman consistently made a payment every month, although every monthly payment was not for the full amount due.

Consequently, the record supports the conclusion that Ms. Caliman is eligible for a Commission-issued payment arrangement. As a level three customer, Ms. Caliman is required to resolve her unpaid balance within one year. 66 Pa.C.S. § 1405(b)(3). While the Complainant seeks a longer repayment period, the Commission is constrained under the Act to limit the repayment period to no longer than twelve months. 66 Pa.C.S. § 1405(b)(3).

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa.C.S. § 701.
2. As the party seeking affirmative relief from the Commission, Complainant bears the burden of proof by a preponderance of the evidence. 66 Pa.C.S. § 332(a).
3. Preponderance of the evidence means that the party with the burden of proof has presented evidence that is more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854 (Pa. 1950).

4. The Responsible Utility Customer Protection Act, 66 Pa. C.S. §§ 1401-1419, applies to this proceeding.

5. The Responsible Utility Customer Protection Act permits the Commission to grant one payment agreement and dictate its terms. 66 Pa.C.S. § 1405.

6. The customer seeking a payment arrangement must demonstrate some evidence of a good faith effort to pay his or her utility bills. *Hewitt v. PECO Energy Co.*, Docket No. F-2011-2273271 (Opinion and Order entered September 12, 2013).

7. The Complainant has met her burden of proof that she is eligible for a Commission payment arrangement. 66 Pa.C.S. § 1405; *Hewitt v. PECO Energy Co.*, Docket No. F-2011-2273271 (Opinion and Order entered September 12, 2013).

8. Pursuant to the Responsible Utility Customer Protection Act, the Commission can grant Complainant a repayment period of one year to extinguish her outstanding balance. 66 Pa.C.S. § 1405(b)(3).

### ORDER

THEREFORE,

IT IS ORDERED:

1. That the formal Complaint filed by Sharon Caliman against Philadelphia Gas Works at Docket No. F-2019-3008485 is granted.

2. That Sharon Caliman shall make monthly payments consisting of her current bill plus one-twelfth (1/12<sup>th</sup>) of the balance accrued on her account, beginning with the first billing date following the entry of a final Commission Order in this case.

3. That as long as Sharon Caliman keeps the payment schedule stated in this Order, Philadelphia Gas Works shall not suspend or terminate her utility service except for valid safety or emergency reasons or assess late payments or finance charges against her account.

4. That, if Sharon Caliman does not keep the payment schedule stated in this Order, Philadelphia Gas Works is authorized to suspend or terminate her utility service in accordance with the Commission's statutes and regulations.

5. That the Secretary mark the docket at Docket No. F-2019-3008485 closed.

Dated: June 4, 2019

\_\_\_\_\_/s/  
Gail M. Chiodo  
Special Agent